

**CALENDAR ITEM  
C40**

A     74  
S     38

10/01/02  
W 25873  
J. Smith

**GENERAL LEASE - PUBLIC AGENCY USE**

**LESSEE:**

City of Del Mar  
1050 Camino del Mar  
Del Mar, California 92014-2698

**AREA, LAND TYPE, AND LOCATION:**

Sovereign lands in the Pacific Ocean and the San Dieguito Lagoon/River Mouth,  
city of Del Mar, San Diego County.

**AUTHORIZED USE:**

Breaching of the San Dieguito Lagoon mouth and maintenance of the opening.

**LEASE TERM:**

Three years, nine months, beginning September 12, 2002.

**CONSIDERATION:**

The public health and safety; with the State reserving the right at any time to set  
a monetary rent if the Commission finds such action to be in the State's best  
interest.

**SPECIFIC LEASE PROVISIONS:**

Insurance:

Liability Insurance: Combined single limit coverage of \$1,000,000; or an  
approved self-insurance plan.

**OTHER PERTINENT INFORMATION:**

1. Applicant has a right to use the uplands adjoining the lease premises.
2. At its meeting on November 27, 2000, the Commission authorized the  
issuance of a one-year lease to the City of Del Mar for breaching and  
maintenance of the San Dieguito Lagoon mouth. At that time, the City had  
received regular permits from the U.S. Army Corps of Engineers, the State

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Department of Fish and Game, and an emergency permit from the California Coastal Commission (CCC). The Commission's action on November 27, 2000, was challenged by local property owners and subsequently sustained by the trial court judge. The matter is now pending before the Fourth Appellate District.

As a follow up to the CCC's emergency permit, on June 12, 2001, the CCC authorized the issuance of Coastal Development Permit No. 6-00-134, which allows the City to excavate approximately 15,000 cubic yards of sediment per event, deposit the material on the beach, and maintain the opening for a period of five years. Pursuant to that permit, the City may perform channel excavation under three scenarios, one of which is when the dissolved oxygen levels in the lagoon are less than five parts per million (ppm).

The City has notified staff that the San Dieguito River mouth has been closed since November 20, 2001, due to an extensive sand berm that has accumulated. During the first two weeks of August 2002, temperature levels increased causing low salinity and dissolved oxygen levels to decrease dramatically. As of September 11, 2002, the dissolved oxygen levels were between zero and two parts per million. The City is proposing to dredge approximately 15,000 cubic yards of sediment from the mouth and deposit the material on the beach both north and south of the lagoon inlet. The activity, expected to take approximately five to seven days, is scheduled to begin September 23, with breaching expected on September 30. The beach will remain open to the public during this time. Once the breaching has occurred, short-term water quality impacts will affect an area that extends 100' north and south of the inlet for approximately five days. The Health Department will post signs in this area notifying the public of this short-term issue.

Pursuant to a letter issued by the Commission's Executive Officer on September 19, 2002, the Applicant was given permission to perform the necessary excavation on State sovereign lands.

An application for a Public Agency Lease has been received and processed by staff. Staff recommends that the Commission authorize a lease to the City to breach and maintain the lagoon mouth for a term consistent with the CCC's permit that will expire on June 11, 2006. The

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lease will require the City to provide staff with copies of the annual monitoring report on or before April 1 of each year.

3. On June 12, 2001, the California Coastal Commission (CCC) granted Permit #6-00-134 for this project under its certified regulatory program (Title 14, California Code of Regulations, section 15251(c)).

Staff has reviewed the document and determined that the conditions, as specified in Title 14, California Code of Regulations, section 15253 (b), have been met for the Commission to use the environmental analysis document certified by the CCC as a Negative Declaration equivalent in order to comply with the requirements of the CEQA.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.
5. Based on all available information, including but not limited to, the history of the lagoon, the impact of past fill and other human activities that have artificially impacted the natural ability of the lagoon to maintain an opening to the Pacific Ocean, the potential threat of malaria, encephalitis, and botulism from increased mosquito levels, the necessity to prevent the potential significant impact to the habitat and associated fish and wildlife within the lagoon and San Dieguito Lagoon Ecological Reserve, and to reduce the possibility of flooding to adjacent properties northeast and south of the lagoon, the activity of removing sand from the mouth of San Dieguito Lagoon is a project that is necessary for the preservation of public trust values in the San Dieguito Lagoon. On balance, the temporary, minor impact of the removal of sand from the mouth of the lagoon on public recreational activities on the beach and adjacent waters is minimal compared to the significant beneficial result of preserving the existing public trust resources by this action to restore tidal flushing of the lagoon.

**APPROVALS OBTAINED:**

California Coastal Commission; State Department of Fish and Game.

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**FURTHER APPROVALS REQUIRED:**

U.S. Army Corps of Engineers; Regional Water Quality Control Board; State Lands Commission.

**EXHIBITS:**

- A. Location and Site Map
- B. Land Description

**PERMIT STREAMLINING ACT DEADLINE:**

April 1, 2003

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

FIND THAT AN ENVIRONMENTAL ANALYSIS DOCUMENT, CALIFORNIA COASTAL COMMISSION (CCC) PERMIT #6-00-134, WAS ADOPTED FOR THIS PROJECT BY THE CCC UNDER ITS CERTIFIED PROGRAM (TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15251(c)), AND THAT THE CALIFORNIA STATE LANDS COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION THEREIN AND CONCURS IN THE CCC'S DETERMINATION.

**SIGNIFICANT LANDS INVENTORY FINDING:**

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

**PUBLIC TRUST FINDING:**

FIND THAT THE ACTIVITY AUTHORIZED BY THIS LEASE IS CONSISTENT WITH AND IN FURTHERANCE OF PUBLIC TRUST NEEDS OF SAN DIEGUITO LAGOON AND ITS CONNECTION WITH THE PACIFIC OCEAN.

**AUTHORIZATION:**

- A. RATIFY, CONFIRM AND APPROVE THE EXECUTIVE OFFICER'S SEPTEMBER 19, 2002, AUTHORIZATION FOR EXCAVATION OF UP TO 15,000 CUBIC YARDS OF MATERIAL

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FROM THE SAN DIEGUITO LAGOON MOUTH FOR  
PROTECTION OF THE ENVIRONMENT.

- B. AUTHORIZE ISSUANCE TO THE CITY OF DEL MAR OF A  
GENERAL LEASE – PUBLIC AGENCY USE, BEGINNING  
SEPTEMBER 12, 2002, FOR A TERM OF THREE YEARS AND  
NINE MONTHS, FOR BREACHING OF THE SAN DIEGUITO  
LAGOON MOUTH AND MAINTENANCE OF THE OPENING, ON  
THE LAND SHOWN ON EXHIBIT A ATTACHED AND BY THIS  
REFERENCE MADE A PART HEREOF; LIABILITY INSURANCE  
FOR COMBINED SINGLE LIMIT COVERAGE OF \$1,000,000 OR  
AN APPROVED SELF-INSURANCE PLAN.